

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:06 CV 223**

JOE STANLEY BROWN, JR.,

Plaintiff,

v.

**COMMISSIONER OF SOCIAL SECURITY
ADMINISTRATION,**

Defendant.

ORDER

THIS MATTER IS BEFORE THE COURT *sua sponte* as to the status of this case. The undersigned notes that the Plaintiff filed a "Complaint"(Document No. 1), on May 8, 2006, and that since that date there has been no proof of service of process on Defendant. This matter has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. §636(b) and is now ripe for review.

On September 15, 2006, the Clerk of Court sent Plaintiff a Notice of Lack of Prosecution (Document No. 3) advising the Plaintiff "[i]f proof of service of process or waiver of service is not filed within **20 days** of this notice, an order to show cause will issue requiring you to show cause why this matter should not be dismissed for lack of prosecution." The Clerk of Court's Notice also provided the following pertinent language from Federal Rule of Civil Procedure 4(m),

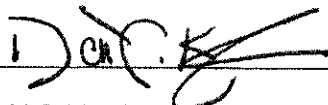
If service of summons and complaint is not made upon a defendant within 120 days after filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for failure the court shall extend the time for service for an appropriate period....

The Court issued a show cause "Order" (Document No. 4), on October 18, 2006 . On November 16, 2006, after being allowed an extension, Plaintiff filed a "...Response to Show Cause Order" (Document No. 7), which suggests Plaintiff had suffered medical hardships which delayed his ability to pursue his lawsuit.

Plaintiff's Document No. 7 did not include a request for an extension of time for service of process, and there has been no activity in this case since that filing. Nevertheless, considering Plaintiff's *pro se* status, and out of an abundance of caution, the undersigned will allow Plaintiff a brief extension of time to provide the Court proof of service of process or waiver of service.

IT IS, THEREFORE, ORDERED that Plaintiff file proof of service of process or waiver of service as to the Defendant, on or before **June 5, 2007**, or this case will be dismissed pursuant to Federal Rule of Civil Procedure 4(m).

Signed: May 7, 2007



David C. Keesler
United States Magistrate Judge

